

1                                    **BEFORE THE ARIZONA MEDICAL BOARD**

2  
3    In the Matter of

4    **MIRIAM A. ARCE, M.D.**

5    Holder of License No. 15645  
6    For the Practice of Allopathic Medicine  
7    In the State of Arizona

Case No. MD-06-1026A

**CONSENT AGREEMENT FOR  
LETTER OF REPRIMAND**

7                                    **CONSENT AGREEMENT**

8            By mutual agreement and understanding, between the Arizona Medical Board  
9    ("Board") and Miriam A. Arce, M.D. ("Respondent"), the parties agreed to the following  
10   disposition of this matter.

11           1.    Respondent has read and understands this Consent Agreement and the  
12   stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement").  
13   Respondent acknowledges that she has the right to consult with legal counsel regarding  
14   this matter.

15           2.    By entering into this Consent Agreement, Respondent voluntarily  
16   relinquishes any rights to a hearing or judicial review in state or federal court on the  
17   matters alleged, or to challenge this Consent Agreement in its entirety as issued by the  
18   Board, and waives any other cause of action related thereto or arising from said Consent  
19   Agreement.

20           3.    This Consent Agreement is not effective until approved by the Board and  
21   signed by its Executive Director.

22           4.    The Board may adopt this Consent Agreement of any part thereof. This  
23   Consent Agreement, or any part thereof, may be considered in any future disciplinary  
24   action against Respondent.

25           5.    This Consent Agreement does not constitute a dismissal or resolution of other  
matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other  
2 pending or future investigation, action or proceeding. The acceptance of this Consent  
3 Agreement does not preclude any other agency, subdivision or officer of this State from  
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject  
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this  
7 matter and any subsequent related administrative proceedings or civil litigation involving  
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
9 or made for any other use, such as in the context of another state or federal government  
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof) to  
13 the Board's Executive Director, Respondent may not revoke the acceptance of the  
14 Consent Agreement. Respondent may not make any modifications to the document. Any  
15 modifications to this original document are ineffective and void unless mutually approved  
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not  
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes  
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will  
21 be publicly disseminated as a formal action of the Board and will be reported to the  
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise  
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force  
25 and effect.

1        11. Any violation of this Consent Agreement constitutes unprofessional conduct  
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,  
3 probation, consent agreement or stipulation issued or entered into by the board or its  
4 executive director under this chapter") and 32-1451.

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10 MIRIAM A. ARCE, M.D.  
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DATED: 8/20/07

**FINDINGS OF FACT**

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 15645 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-06-1026A after receiving notification of a malpractice settlement involving Respondent's care and treatment of a sixty year-old male patient ("DL").

4. On September 21, 2004, DL presented to Respondent with a chief complaint of breathing problems. Respondent examined DL and noted he did not have heart failure. Despite a lack of documentation of a complete evaluation, including DL's history of present illness and symptoms related to the presenting complaint, including basic symptom variance with exertion, recumbence of paroxysmal nocturnal onset or intensification; Respondent diagnosed DL with shortness of breath, obesity and thyromegaly and prescribed Advair, a bronchodilator inhaler asthma treatment medication. Respondent's clinical impression was that DL's obesity resulted in the acute dyspnea and fatigue symptoms. Respondent instructed DL to call if his symptoms worsened.

5. On October 1, 2004, DL died of coronary artery disease and apparent heart failure. The autopsy revealed the cause of death was hypertensive and atherosclerotic cardiovascular disease.

6. In response to the Board's investigation, Respondent submitted a one page medical record dated September 21, 2004. The medical record showed Respondent treated DL for dyspnea with a bronchodilator inhaler without confirming bronchospasm and without excluding multiple serious conditions, including palpitations. Respondent also deferred gastrointestinal ("GI") testing even though a rectal examination directly pertaining

1 to DL's fatigue symptoms could have identified a GI blood loss based anemia. Additionally,  
2 Respondent's intake evaluation was illegible and she used nonstandard abbreviations.

3 7. The standard of care requires a physician to recognize acute onset of  
4 dyspnea in a sixty year-old male as a chest pain equivalent when an alternate explanation  
5 is not identified.

6 8. Respondent deviated from the standard of care because she did not  
7 recognize acute onset of dyspnea as a chest pain equivalent in DL. Respondent treated  
8 DL for a bronchospasm and did not consider multiple serious conditions.

9 9. The standard of care requires a physician to obtain a stool Hemoccult test to  
10 identify possible GI blood loss based anemia.

11 10. Respondent deviated from the standard of care because she did not obtain a  
12 stool Hemoccult test from DL to identify possible GI blood loss based anemia. Respondent  
13 deferred DL's GI testing.

14 11. Respondent's failure to recognize acute onset of dyspnea as a chest pain  
15 equivalent and that fatigue was a possible source of anemia delayed proper diagnosis and  
16 treatment and as a result DL died.

17 12. A physician is required to maintain adequate legible medical records  
18 containing, at a minimum, sufficient information to identify the patient, support the  
19 diagnosis, justify the treatment, accurately document the results, indicate advice and  
20 cautionary warnings provided to the patient and provide sufficient information for another  
21 practitioner to assume continuity of the patient's care at any point in the course of  
22 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because they  
23 were illegible, including using nonstandard abbreviations and she failed to document a  
24 complete evaluation.

1 CONCLUSIONS OF LAW

2 1. The Board possesses jurisdiction over the subject matter hereof and over  
3 Respondent.

4 2. The conduct and circumstances described above constitute unprofessional  
5 conduct pursuant to A.R.S. § 32-1401(27)(e) ("failing or refusing to maintain adequate  
6 records on a patient.") and A.R.S. § 32-1401(27)(q) ("any conduct or practice that is or  
7 might be harmful or dangerous to the health of the patient or the public.").

8 ORDER

9 IT IS HEREBY ORDERED THAT:

10 1. Respondent is issued a Letter of Reprimand for failure to recognize acute  
11 onset dyspnea as a chest pain equivalent, for failure to perform an adequate evaluation  
12 and for failure to maintain adequate medical records.

13 2. This Order is the final disposition of case number MD-06-1026A.

14 DATED AND EFFECTIVE this 12<sup>th</sup> day of October, 2007.



ARIZONA MEDICAL BOARD

20 By [Signature]  
21 TIMOTHY C. MILLER, J.D.  
22 Executive Director  
23

24 ORIGINAL of the foregoing filed  
25 this 12<sup>th</sup> day of October, 2007 with:

Arizona Medical Board  
9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed  
2 this 2<sup>nd</sup> day of March, 2007 to:

3 Miriam A. Arce, M.D.  
4 Address of Record

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7 Investigational Review  
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